

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1977

No. **77-373**

ALAN ERNEST, Next Friend of Unborn Child Roe  
And All Others Similarly Situated

Petitioner

vs.

THE UNITED STATES COURT OF APPEALS FOR  
THE DISTRICT OF COLUMBIA CIRCUIT

JIMMY CARTER, President of the United States;  
GRIFFIN B. BELL, Attorney General of the United  
States; EARL J. SILBERT, United States Attorney  
for the District of Columbia,

REAL PARTIES IN INTEREST

MOTION FOR LEAVE TO FILE A PETITION FOR  
A WRIT OF MANDAMUS WITH PETITION

ALAN ERNEST  
5713 Harwich Ct. #232  
Alexandria, Va. 22311

The Petitioner Pro Se

Supreme Court, U.S.  
FILED

SEP 9 1977

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SUPREME COURT OF THE UNITED STATES  
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FOR A WRIT OF MANDAMUS

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The petitioner moves for leave to file the attached petition for a writ of mandamus to the Court of Appeals and prays that it be granted and the relief requested therein speedily ordered.

Alan Ernest  
5713 Harwich Ct. #232  
Alexandria, Va 22311

The Petitioner Pro Se

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SUPREME COURT OF THE UNITED STATES  
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REAL PARTIES IN INTEREST

PETITION FOR A WRIT OF MANDAMUS

Alan Ernest, the petitioner, hereinafter referred to as "next friend," prays that a writ of mandamus be issued to the United States Court of Appeals for the District of Columbia Circuit.

OPINIONS BELOW

The court below issued no opinions.

JURISDICTION

1. The order to be reviewed was entered by



the Court of Appeals on June 14, 1977. ( Appendix A-1 and A-2, infra. )

2. The jurisdiction of this Court is invoked under 28 U.S.C. 1651(a).

#### WHY RELIEF IS SOUGHT IN THIS COURT

Relief is sought in this Court for the obvious reason that it is the duty of this Court to supervise lower federal courts, and it is doubtful that any other court would assume jurisdiction to issue orders to the Court of Appeals.

#### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FIFTH AMENDMENT: "No person shall . . . be deprived of life . . . without due process of law."

22 D.C. Code 201: "Whoever, by means of any instrument, medicine, drug, or other means whatever, procures or produces, or attempts to procure or produce an abortion or miscarriage on any woman, unless the same were done as necessary for the preservation of the mother's life or health and under the direction of a competent licensed practitioner of medicine, shall be imprisoned in the penitentiary not less than one year or not more than ten years; . . ."

#### QUESTIONS PRESENTED

1. For the fifth time, the Supreme Court is petitioned to overrule Roe v Wade, 410 US 113(1973) on the grounds that it is based on false evidence, and millions of lives have been unconstitutionally exterminated. This question is presented in petition Cert. No. 77- 184, filed August 1, 1977, and need

not be further discussed here. The documentation to support the charge, EXHIBIT A, has been placed in the file of No. 77- 184.

2. The purpose of this petition is as follows. It is charged that in 1970, the Court of Appeals condemned thousands of unborn victims to death without documenting any evidence whatsoever to establish that these exterminations were legal either under the statute or the United States Constitution. See EXHIBIT C. ( a copy has been placed in the file of pet. for cert. No. 77- 184.)

This petition demands that the Supreme Court declare the process of condemning victims to death without evidence to be illegal, and to order the Court of Appeals to overrule its 1970 orders.

#### STATEMENT OF THE CASE

In 1970, the Court of Appeals construed the D.C. abortion statute, 22 D.C. Code 201, to permit abortions for "mental health" reasons. See Doe v. General Hospital of the District of Columbia, 140 US App DC 149 and 140 US App DC 153. The decision effectively opened the door to abortion on demand in the District of Columbia; it amounted to the same thing by another name. See EXHIBIT C at 1.

However the Court of Appeals documented no evidence whatsoever to prove these homicides legal either under the D.C. abortion statute or the United States Constitution. The whole case rests on judicial assertion. It is charged that the very process of condemning victims to death without documenting any evidence at all to support it is itself illegal.

Futhermore, EXHIBIT C shows that these exterminations violated the D.C. abortion statute. And EXHIBIT A shows that these homicides violated the United States Constitution.

The petition for rehearing and the suggestion for a rehearing en banc in their case No. 76-2014, now Pet. Cert. No. 77-184, demanded that the Court of Appeals overrule the Doe v General Hospital cases. Both the petition for rehearing and the suggestion for rehearing en banc were denied. See Appendix A-1, A-2, infra.

The Supreme Court is now petitioned to order the Court of Appeals to overrule the Doe v General Hospital cases.

Of course, the Supreme Court will itself have to overrule United States v Vuitch, 402 US 62(1971).

#### REASONS FOR GRANTING THE WRIT

Each judge on the Court of Appeals is "bound by oath" to uphold the Constitution, and holding office is conditioned on "good behaviour." In regards to this:

1. The Court of Appeals asserted that the D. C. abortion statute permitted abortions for "mental health" reasons. But no evidence was documented by that court to support that assertion, and prove the homicides legal under the statute. Abraham Lincoln warned: "(I)t is an established maxim in morals that he who makes an assertion without knowing whether it is true or false, is guilty of falsehood; and the accidental truth of the assertion, does not justify or excuse him." 1 Collected Works of Abraham Lincoln 384(1953)

2. More importantly, the Court of Appeals documented no investigation whatsoever to see if its interpretation of the D.C. abortion statute would violate any rights of unborn children protected by the United States Constitution. In addition to Lincoln's "maxim in morals" about "falsehood," Chief Justice John Marshall held that for

judges to "swear" to discharge their "duties agreeably to the constitution" and then "to close their eyes on the constitution, and . . . condemn to death those victims whom the constitution endeavours to preserve" is worse than "solemn mockery," it is a "crime." Marbury v Madison, 1 Cranch 137 179-180.

3. By what authority would federal judges sign an order to routinely exterminate human life, in manifest contradiction of the express command of the Constitution that "No person shall . . . be deprived of life . . . without due process of law," and of the Declaration of Independence that "all men are created equal" and endowed with certain "unalienable rights, that among these are life," without documenting any evidence whatsoever to support that manifest contradiction? It is not possible that any American judge could have honestly believed that he possessed any power under the United States Constitution to order such a manifest contradiction, specifically designed to routinely exterminate human life, without documenting any evidence whatsoever to prove that the order did not illegally exterminate human life. One court wrote of judges who condemned victims to death based on a belief that the victims were inferior, "The dagger of the assassin was concealed beneath the robe of the jurist." The Justice Case, 3 Trials of War Criminals before the Nuernberg Military Tribunals 985.

"Alas for you lawyers! You have taken away the key of knowledge. You did not go in yourselves, and those who were on their way in, you stopped." Luke 11:52 (New English Bible)

"Alas for you, lawyers . . . hypocrites! You are like tombs covered with whitewash; they look well from the outside, but inside they are full of dead men's bones and all kinds of filth. So it is with you; outside you look like honest men, but



inside you are brim-full of hypocrisy and crime."  
Matthew 23:27-29

"Beware of the doctors of the law, who love to walk up and down in long robes, receiving respectful greetings . . . and to have the chief seats . . . they will receive the severest sentence." Mark 12:38-40.

#### CONCLUSION

EXHIBIT C shows that both Doe v General Hospital in the District of Columbia, supra, and United States v Vuitch, supra, will have to be overruled because the cases illegally exterminate human life.

Alan Ernest  
5713 Harwich Ct. #232  
Alexandria, Va 22311

The Petitioner Pro Se

#### UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 76-2014                      September Term 1976  
Unborn Child Roe and all      Civil Action 76-1744  
others similarly situated,  
by next friend Alan Ernest,  
Appellant                      Filed June 14, 1977  
George A. Fisher  
Clerk  
v.

Jimmy Carter, President of  
the United States, et al.

BEFORE: Bazeion, Chief Judge; Leventhal, Circuit  
Judge.

#### ORDER

On Consideration of appellant's petition for  
rehearing it is

ORDERED by the Court that the aforesaid petition  
is denied.

Per Curiam  
For the Court:  
George A. Fisher, Clerk  
By: Robert A. Bonner/s/  
Robert A. Bonner  
Chief Deputy Clerk

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 76-2014

Unborn Child Roe and all  
others similarly situated,  
by next friend Alan Ernest,  
Appellant

September Term 1976  
Civil Action 76-1744

Filed June 14, 1977  
George A. Fisher  
Clerk

v.

Jimmy Carter, President of  
the United States, et al.

BEFORE: Bazelon, Chief Judge, Wright, McGowan, Tamm,  
Leventhal, Robinson, MacKinnon, Robb and Wilkey, Cir-  
cuit Judges.

O R D E R

On consideration of appellant's suggestion for  
rehearing en banc, and no judge of the Court in reg-  
ular active service having called for a vote there-  
on, it is

ORDERED by the Court, en banc, that appellant's  
aforesaid suggestion is denied.

Per Curiam

For the Court:

George A. Fisher, Clerk

By: Robert A. Bonner/s/

Robert A. Bonner

Chief Deputy Clerk